CLERK'S OFFICE U.S. DIST. COURT AT DANVILLE, VA

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF VIRGINIA ROANOKE DIVISION

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| JAMES DANIEL BRISCOE, |) | BY: HMC DEPUTY CLERK |
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| |) | Civil Action No. 7:06cv00752 |
| Plaintiff, |) | |
| |) | FINAL ORDER |
| |) | |
| DR. MOSES, <u>et</u> <u>al.</u> , |) | By: Hon. Jackson L. Kiser |
| |) | Senior United States District Judge |
| Defendants. |) | g |

In accordance with the accompanying Memorandum Opinion, it is hereby

ADJUDGED AND ORDERED

that the Motion to Dismiss all claims against Defendant Hubbard (Dkt. No. 40), shall be and hereby is **GRANTED**; and all claims against Defendant Hubbard are hereby **DISMISSED** without prejudice, pursuant to 28 U.S.C. § 1915A(b)(1), for failure to state any actionable claim; the Motions to Dismiss filed by Defendant Dr. Moses (Dkt. No. 24), which I construe as a Motion for Summary Judgment, and Defendants Simpkins and Wirt (Dkt. No. 40), are hereby **DENIED** and the Defendants are hereby **DIRECTED** to file within twenty (20) days from entry of this Order supplemental Motions for Summary Judgment, supported by affidavit(s), addressing issues including, but not limited to, the following:

- A. Whether Briscoe is a pretrial detainee or a convicted prisoner;
- B. Whether Briscoe's osteoarthritis and prostate problems are serious medical needs and whether the medications at issue are medically necessary;
- C. Whether Simpkins and Wirt were personally involved with a denial of treatment;
- D. NRVJ policy for treating indigent inmates; and
- E. Whether Briscoe is currently receiving the requested medication for his osteoarthritis

and/or his enlarged prostate.

The Clerk of the Court is directed to send a copy of this Order and Memorandum Opinion to Plaintiff and to counsel of record for Defendants.

ENTER: This 24 ay of August, 2007.

Senior/United States District Judge